

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

NCS MULTISTAGE INC., §

Plaintiff, §

CIVIL ACTION NO. **6:20-cv-700**

vs. §

PACKERS PLUS ENERGY SERVICES §
INC. AND PACKERS PLUS ENERGY §
SERVICES (USA) INC., §

Defendant. §

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff NCS Multistage Inc. (“NCS” or “Plaintiff”), by and through the undersigned counsel, hereby brings its Complaint for Patent Infringement against Defendants Packers Plus Energy Services Inc. (“Packers Plus Canada”) and Packers Plus Energy Services (USA) Inc. (“Packers Plus USA”) (collectively “Packers Plus” or “Defendants”).

NATURE OF THE ACTION

1. This is an action for patent infringement. NCS alleges that Packers Plus infringes the following NCS Patent, which is attached hereto as **Exhibit A**:

- U.S. Patent No. 10,465,445 (“the ’445 Patent”)

2. NCS alleges that Packers Plus infringes the ’445 Patent by making, using, offering for sale, selling, and/or importing the AeroSTAT Glass Barrier Sub. NCS seeks damages, injunctive, and other relief for infringement of the ’445 Patent.

THE PARTIES

3. Plaintiff NCS is a Canadian corporation with a place of business at 700, 333-7th Ave SW Calgary, AB T2P 2Z1, and with worldwide headquarters at 19350 State Highway 249, Suite 600, Houston, TX 77070.

4. Upon information and belief, Defendant Packers Plus Canada is a Canadian corporation with global headquarters at 3500, 525-8th Avenue SW, East Tower, Calgary, Alberta T2P 1G1. *See* <https://packersplus.com/contact/>. Upon information and belief Packers Plus Canada has designated Kane, Russell, Coleman & Logan, P.C., 5051 Westheimer Road, Houston, TX 77056 as its agent for service of process and maintains a U.S. corporate office.

5. Upon information and belief, Defendant Packers Plus USA is a corporation organized and incorporated under the laws of the State of Delaware with the right to transact business in Texas. Packers Plus USA has US Headquarters at 11415 Spell Road, Tomball, TX 77375. Packers Plus also has a district office at 12306 State Highway 191, Midland, TX 79707 and sales offices in Houston, TX, Dallas, TX, and Midland, TX. *See* <https://packersplus.com/contact/>. Packers Plus USA has designated Kane Russell Coleman & Logan PC, at 5051 Westheimer Road, Suite 1000, Houston, TX 77056, as its registered agent.

JURISDICTION AND VENUE

6. This action for patent infringement arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et. seq.* This Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1338.

7. This Court has general personal jurisdiction over Packers Plus Canada because it has availed itself of the rights and benefits of the laws of Texas, has derived substantial revenue from the sales of the infringing AeroSTAT Glass Barrier Sub in Texas, and it has systematic and

continuous business contacts with Texas. Additionally, this Court has specific personal jurisdiction over Packers Plus Canada because Packers Plus Canada purposefully directed its activities at Texas, the claim arises out of Packers Plus Canada's activities with Texas, and the assertion of personal jurisdiction is reasonable and fair. Packers Plus Canada has a U.S. corporate office in Texas and conducts business in Texas. Packers Plus Canada markets oil and gas equipment to Texas customers via its website <https://packersplus.com/>, including the infringing AeroSTAT Glass Barrier Sub. Upon information and belief, Packers Plus Canada manufactures oil and gas equipment, including the infringing AeroSTAT Glass Barrier Sub, which it exports to Packers Plus USA in Texas and other Texas customers. Packers Plus USA offers for sale and sells the equipment, including the infringing AeroSTAT Glass Barrier Sub, to customers in Texas.

8. This Court has personal jurisdiction over Packers Plus USA. Upon information and belief, Packers Plus USA has a principal place of business in Tomball, TX.

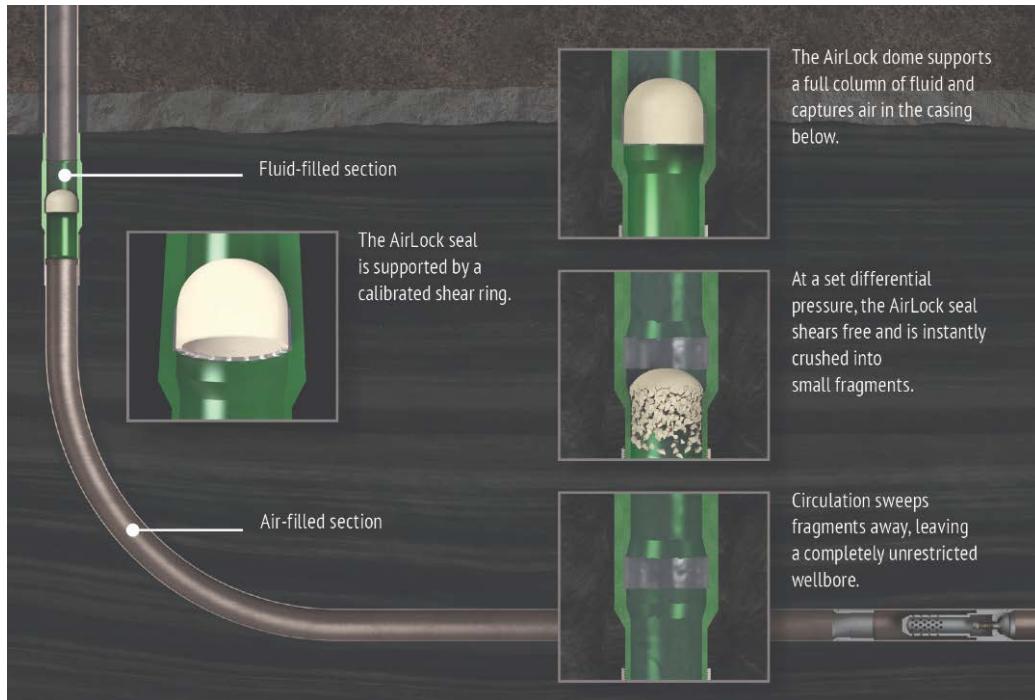
9. Venue is proper in this district under 28 U.S.C. §§ 1391 and 1400(b) because, upon information and belief, Packers Plus Canada is a foreign company, has committed acts of infringement in the Western District of Texas by exporting the infringing AeroSTAT Glass Barrier Sub to the Western District of Texas, has sold the infringing AeroSTAT Glass Barrier Sub in the Western District of Texas, and has a regular and established place of business in Midland, TX. Packers Plus USA is a Texas resident, has sold the infringing AeroSTAT Glass Barrier Sub in the Western District of Texas, and has a regular and established place of business in Midland, TX. Upon information and belief, Packers Plus Canada manufactures the infringing AeroSTAT Glass Barrier Sub and exports them to Packers Plus USA and other Texas customers. Packers Plus USA sells the infringing devices in the Western District of Texas.

BACKGROUND

A. NCS

10. NCS is a leading technology and service company that specializes in multistage well completions. NCS initially formed in Canada in 2006 as NCS Oilfield Services and began developing downhole completion tools for conventional and unconventional completions. In 2008, NCS incorporated in the United States and established its world headquarters in Houston, TX. Today, NCS has 20 offices in the U.S. and Canada, and operates in Argentina, China, Russia, the Middle East and the North Sea, with a record of over 10,000 field successes.

11. NCS is an expert in developing downhole tools like its AirLock® buoyancy system, a “casing float tool” covered by the ’445 Patent. NCS marks its AirLock® system with the web address of its patent notice which contains the ’445 Patent number. As a casing string is run into the horizontal portion of a wellbore the casing string can drag on the bottom of the wellbore due to its weight and gravity. This makes it challenging to run the casing to the target zone. The AirLock® system is designed to create buoyancy in the casing string, so that the string is lighter and it is easier to run the casing into the wellbore. This is called “floating the casing” into the wellbore. Below is a picture of the patented Airlock® system.



12. The AirLock® system (above in green) is a tubular body attached to the casing string (above in grey). Within the tubular is a rupture disc (above in white). In use, the portion of the casing string above the rupture disc is filled with fluid. The portion of the casing string below the rupture disc is filled with air, which creates buoyancy in the lower portion of the string. This enhanced buoyancy reduces sliding friction up to 50% while the enhanced weight of the vertical section provides the force needed to push the string all the way to the toe of the well. After the casing string is run to the target zone, hydraulic pressure is applied from the surface, which causes the rupture disc to disengage from the tubular walls and shatter. This process restores the internal diameter of the casing string so that fluid can freely flow through the casing string. More than 9,000 AirLock systems have been installed, and casing has landed on more than 99.9% of first attempts.

13. NCS invests substantial resources in innovation and the protection of its valuable intellectual property. To date, NCS has worldwide approximately 51 issued patents, including the '445 Patent that covers its AirLock® System, and 98 pending patent applications.

B. PACKERS PLUS

14. According to its website, Packers Plus is a privately held completions company with global headquarters in Calgary, Alberta and US headquarters in Tomball, TX. It was founded in 2000 and manufactures and sells various completions technology. *See* <https://packersplus.com/systems-solutions/>. Below is an image of the AeroSTAT Glass Barrier Sub from Packers Plus's marketing materials:



15. According to Packer Plus's website (<https://packersplus.com/solution/aerostat-glass-barrier-sub/>; <https://packersplus.com/performance/float-installations-lower-costs-in-extended-reach-laterals/>), the AeroSTAT Glass Barrier Sub is a casing floatation device, creating buoyancy in the casing string that makes it easier to run casing through the horizontal portion of a wellbore. The AeroSTAT Glass Barrier Sub is a tubular body that has a glass barrier disc. After the casing is landed in the target zone, the glass barrier disc is ruptured by applying hydraulic pressure from the surface, which restores the internal diameter of the casing string.

C. NCS NOTIFIES PACKERS PLUS OF INFRINGEMENT CONCERNS IN JULY 2020

16. On July 22, 2020, NCS's Vice President of US sales contacted Packers Plus's General Manager for Completion Products to notify Packers Plus of the '445 Patent and NCS's concern that Packers Plus's AeroSTAT Glass Barrier Sub infringes the '445 Patent.

COUNT 1: INFRINGEMENT OF THE '445 PATENT

17. The allegations of paragraphs 1-16 of this Complaint are incorporated by reference as though fully set forth herein.

18. NCS owns by assignment the entire right, title, and interest in the '445 Patent.

19. The '445 Patent was duly and legally issued by the United States Patent and Trademark Office on November 5, 2019 and is entitled "Casing Float Tool." A true and correct copy of the '445 Patent is attached hereto as **Exhibit A**.

20. The '445 Patent is valid and enforceable under the laws of the United States.

21. Packers Plus Canada and Packers Plus USA have directly infringed and are directly infringing at least claims 14-15, 22-25, and 27 of the '445 Patent in violation of 35 U.S.C. § 271 *et seq.*, by making, using, offering for sale, selling, and/or importing in the United States without authority the accused AeroSTAT Glass Barrier Sub. For example, as shown in the claim chart attached hereto as **Exhibit B**, the AeroSTAT Glass Barrier Sub meets every element of claim 14 either literally or under the doctrine of equivalents.

22. Packers Plus Canada and Packers Plus USA have indirectly infringed and/or are indirectly infringing at least claims 22-25 and 27 of the '445 Patent in violation of 35 U.S.C. § 271 *et seq.* With knowledge of the '445 Patent, Packers Plus Canada and Packers Plus USA have induced and/or are inducing customers to directly infringe the '445 Patent by directing, causing, instructing and/or encouraging their customers to use the AeroSTAT Glass Barrier Sub

to perform the method of claims 22-25 and 27 of the '445 Patent. For example, Packers Plus Canada and Packers Plus USA advertise to customers on their website, <https://packersplus.com/solution/aerostat-glass-barrier-sub/>, that the AeroSTAT Glass Barrier Sub can be installed on casing and run into a well with the casing. A rupture disc in the device creates buoyancy so that the casing can be floated to the target zone. Packers Plus advertises that once its customers run the casing to the target zone, they can apply pressure to rupture the rupture disc, which restores the casing diameter. Upon information and belief, Packers Plus Canada ships the AeroSTAT Glass Barrier Sub from Canada to Packers Plus USA. Packers Plus USA sells the AeroSTAT Glass Barrier Sub to customers in the US.

23. Packers Plus's infringement of the '445 Patent has been and continues to be willful and deliberate. Upon information and belief, Packers Plus has been on notice of their infringement of the '445 Patent since at least July 22, 2020, when NCS's Vice President of Sales notified Packers Plus's General Manager of Completions about the infringement. However, upon information and belief, Packers Plus continues to use, sell, offer to sell, and import the accused AeroSTAT Glass Barrier Sub, despite a known or obvious risk of infringement of the '445 Patent.

24. As a result of Packers Plus's acts of infringement, NCS has suffered and will continue to suffer damages in an amount to be proved at trial.

PRAYER FOR RELIEF

WHEREFORE, NCS prays for the following relief:

- A. A judgment that Packers Plus Canada has infringed the '445 Patent;
- B. A judgment that Packers Plus USA has infringed the '445 Patent;

- C. An order enjoining Packers Plus Canada, its officers, agents, employees, and those persons in active concert or participation with any of them, and Packers Plus Canada's successors and assigns, from continuing to infringe the '445 Patent;
- D. An order enjoining Packers Plus USA, its officers, agents, employees, and those persons in active concert or participation with any of them, and Packers Plus USA's successors and assigns, from continuing to infringe the '445 Patent;
- E. An order awarding NCS its damages pursuant to 35 U.S.C. § 284;
- F. An order finding that Packers Plus Canada's infringement has been willful and increasing the damages awarded to NCS to three times the amount assessed pursuant to 35 U.S.C. § 284;
- G. An order finding that Packers Plus USA's infringement has been willful and increasing the damages awarded to NCS to three times the amount assessed pursuant to 35 U.S.C. § 284;
- H. An order finding that this case is exceptional within the meaning of 35 U.S.C. § 285 and awarding NCS its attorneys' fees;
- I. An order awarding NCS prejudgment and post-judgment interest on its damages;
- J. An order awarding NCS its costs;
- K. An order awarding NCS any other and further relief as the Court deems proper.

Dated: July 30, 2020

Respectfully submitted,

/s/ Domingo M. LLagostera
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